

ENTERED

April 24, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JERRY DON WILLIAMS,

Petitioner,

VS.

UNITED STATES DISTRICT JUDGE LEE H.
ROSENTHAL, *et al*,

Defendants.

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CIVIL ACTION NO. 4:17-CV-1188

ORDER OF DISMISSAL

Jerry Don Williams is a Texas state inmate, currently confined in a pre-release substance abuse treatment program. Williams has filed a petition for a writ of mandamus against two United States District Judges. Williams has not paid the filing fee. This action will be dismissed pursuant to the provisions of 28 U.S.C. § 1915(g).

Barring a show of imminent danger, under the Prison Litigation Reform Act of 1995, a prisoner may not file an action without prepayment of the filing fee if he has, on three or more prior occasions, filed a prisoner action in federal district court or an appeal in a federal court of appeals which was dismissed as frivolous or malicious. 28 U.S.C. § 1915(g); *Adepegba v. Hammons*, 103 F.3d 383, 385 (5th Cir. 1996). Williams has accumulated at least nine such dismissals before filing the instant case, and is no longer allowed to proceed *in forma pauperis* pursuant to the provisions of section 1915(g). *See, e.g., Williams v. Atlas*, No. 4:12-cv-1011 (S.D. Tex. Apr. 13, 2012) and cases cited therein. Williams' allegations do not plead any facts showing that he is in any immediate danger which would warrant waiver of the fee requirement. *See Choyce v. Dominguez*, 160 F.3d 1068, 1071 (5th Cir. 1998); *Banos v. O'Guin*, 144 F.3d 883, 884 (5th Cir. 1998).

In light of the pleadings and his litigation history, Williams has failed to show that he is eligible to proceed as a pauper and has also failed to assert a claim that has any legal basis. Consequently, this action should be dismissed pursuant to 28 U.S.C. § 1915(g) and 28 U.S.C. § 1915(e). **This dismissal shall count as a strike under section 1915(g).**

The court ORDERS that the Petition for a Writ of Mandamus (Docket Entry No. 1), filed by Jerry Don Williams is DISMISSED. 28 U.S.C. § 1915(g); 28 U.S.C. § 1915(e).

The Clerk is directed to provide a copy of this Memorandum Opinion and Order to the parties and to the TDCJ - Office of the General Counsel, P.O. Box 13084, Austin, Texas 78711, Fax Number (512) 936-2159.

SIGNED on this 24th day of April, 2017.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge